

Senate Bill No. 1074

CHAPTER 939

An act to amend Sections 22000, 22007, 22008, 22119.2, 22128, 22134, 22135, 22136, 22138.5, 22147.5, 22148, 22161, 22163, 22306, 22327, 22360, 22400, 22455.5, 22457, 22458, 22459, 22502, 22503, 22504, 22508, 22508.5, 22514, 22516, 22601.5, 22602, 22604, 22664, 22713, 22714, 22717, 22718, 22801, 22803, 22805, 22820, 22823, 22826, 22955, 23003, 23004, 23006, 23201, 23702, 23851, 24101.5, 24201, 24203.5, 24211, 24212, 24213, 24300, 24305.5, 24306, 24307, 24600, 24615, 26135, 26202, 26215, 26301, 26303, 26401.5, 26504, 26603, 26604, 27410, 44494, and 47611 of, to add Sections 22104.5, 22106.1, 22106.2, 22109.5, 22115.2, 22115.5, 22156.1, 22156.2, 22156.5, 22170.5, 22360.5, 22724, and 23805.5 to, to repeal and add Section 24205 of, the Education Code, and to amend Section 20639 of the Government Code, relating to the State Teachers' Retirement System.

[Approved by Governor October 10, 1999. Filed
with Secretary of State October 10, 1999.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1074, Committee on Public Employment and Retirement. State Teachers' Retirement System.

The State Teachers' Retirement Law prescribes the retirement benefits of eligible teachers in the public schools who are participants in the Defined Benefit Program and the Cash Balance Benefit Program. Those programs were separately administered by the Teachers' Retirement Board until they were merged by Chapter 1048 of the Statutes of 1998.

This bill would revise various provisions to reflect that merger, make related technical changes, update various provisions, and codify various existing regulations. The bill would define various terms for purposes of benefit computations.

The State Teachers' Retirement Law prescribes retirement benefits for a nonmember spouse who is awarded a separate account upon legal separation or dissolution of marriage.

This bill would incrementally increase the maximum benefit factor for calculation of benefits for a nonmember spouse whose retirement is effective on or after January 1, 1999, and at an age greater than normal retirement age, as specified.

The State Teachers' Retirement Law provides increased benefits for members who have 30 or more years of credited service, subject to certain conditions.

The bill would specify types of credited service that are excluded from or included in the calculation of credited service for

determining eligibility for those increased benefits and provide that nonmember spouses are eligible for those increased benefits if the member had 30 or more years of credited service on the date the parties separated. The bill would state that certain of these provisions are declaratory of existing law.

Existing law, known as the Dave Elder State Teachers' Retirement System Home Loan Program Act, establishes a member home loan financing program and requires the Teachers' Retirement Board to adopt regulations governing the program.

This bill would modify the terms and conditions of that program and add an authorization for personal loans, secured by a portion of a member's accumulated retirement contributions, to be used to finance a portion of the purchase price of the member's home, subject to specified terms.

The bill would provide that any other act enacted by the Legislature during 1999 that affects any section of the bill shall prevail over the provisions of the bill.

The people of the State of California do enact as follows:

SECTION 1. Section 22000 of the Education Code is amended to read:

22000. This part may be known and cited as the E. Richard Barnes Act and together with Part 14 (commencing with Section 26000) shall be known as the Teachers' Retirement Law.

SEC. 2. Section 22007 of the Education Code is amended to read:

22007. The obligations of any member, or the member's beneficiaries, to this system and the Defined Benefit Program continue throughout membership, and thereafter until all of the obligations of this system and the Defined Benefit Program to or in respect to the member or the member's beneficiaries have been discharged.

SEC. 3. Section 22008 of the Education Code is amended to read:

22008. For the purposes of payments into or out of the retirement fund for adjustments of errors or omissions with respect to the Defined Benefit Program, the period of limitation of actions shall be applied, except as provided in Sections 23302 and 24613, as follows:

(a) No action may be commenced by or against the board, the system, or the plan more than three years after all obligations to or on behalf of the member, former member, or beneficiary have been discharged.

(b) If the system makes an error that results in incorrect payment to a member, former member, or beneficiary, the system's right to commence recovery shall expire three years from the date the incorrect payment was made.

(c) If an incorrect payment is made due to lack of information or inaccurate information regarding the eligibility of a member, former

member, or beneficiary to receive benefits under the plan, the period of limitation shall commence with the discovery of the incorrect payment.

(d) Notwithstanding any other provision of this section, if an incorrect payment has been made on the basis of fraud or intentional misrepresentation by a member, beneficiary, or other party in relation to or on behalf of a member or beneficiary, the three-year period of limitation shall not be deemed to commence or to have commenced until the system discovers the incorrect payment.

(e) The collection of overpayments under subdivisions (b), (c), and (d) shall be made pursuant to Section 24617.

SEC. 4. Section 22104.5 is added to the Education Code, to read:

22104.5. “Actuary” means a person professionally trained in the technical and mathematical aspects of insurance, pensions, and related fields who has been appointed by the board for the purpose of actuarial services required under this part.

SEC. 5. Section 22106.1 is added to the Education Code, to read:

22106.1. “Base days” means the number of days of creditable service required to earn one year of service credit.

SEC. 6. Section 22106.2 is added to the Education Code, to read:

22106.2. “Base hours” means the number of hours of creditable service required to earn one year of service credit.

SEC. 7. Section 22109.5 is added to the Education Code, to read:

22109.5. “Break in service,” for purposes of determining a member’s final compensation, means:

(a) With respect to service of a member employed as a full-time employee and service performed by a member employed as a part-time employee, any period of time covering a pay period during which a member is on an unpaid leave or absence or a pay period in which a member has not performed any creditable service.

(b) For a member who has been employed in a substitute position:

(1) And has a change in assignment during a school year to a full-time or part-time position, a break in service is determined on the same basis as for the full-time or part-time employment during the same school year.

(2) For less than 50 percent of their teaching career for which service is credited, a break in service is determined on the same basis as full-time employment.

(3) For more than 50 percent of their teaching career for which service is credited, a break in service is any period of time within a school year for which compensation is not paid and service is not credited.

(c) If a member commenced performing service at the beginning of a school term, July and August of the school year are not a break in service; however, if the member commenced performing service after the school term begins, the previous July and August are a break in service.



(d) Earnable salaries for a full pay period, but not beyond the effective date of retirement, shall be used in determining final compensation when the member performed service within that pay period.

SEC. 8. Section 22115.2 is added to the Education Code, to read:

22115.2. “Concurrent membership” means membership in the Defined Benefit Program by an individual who is credited with service that is not used as a basis for benefits under any other public retirement system and is also a member of the California Public Employees’ Retirement System, the Legislators’ Retirement System, the University of California Retirement System, county retirement systems established under Chapter 3 (commencing with Section 31450) of Part 3 of Division 4 of Title 3 of the Government Code, or the San Francisco City and County Employees’ Retirement System. A member with concurrent membership shall have the right to the following:

(a) Have final compensation determined pursuant to subdivision (c) of Section 22134.

(b) Redeposit accumulated retirement contributions pursuant to Section 23201.

(c) Apply for retirement pursuant to paragraph (2) of subdivision (a) of Section 24201.

SEC. 9. Section 22115.5 is added to the Education Code, to read:

22115.5. (a) “Concurrent retirement” entitles a member of the Defined Benefit Program to retire for service from the State Teachers’ Retirement System and from at least one of the retirement systems with which the member has concurrent membership, as defined in Section 22115.2, on the same date or on different dates provided that the member does not perform creditable service subject to coverage under the other system or the Defined Benefit Program between the two retirement dates.

(b) A retired member who is subsequently employed in a position subject to membership in a public retirement system, specified in Section 22115.2, shall not be eligible for concurrent retirement.

SEC. 10. Section 22119.2 of the Education Code is amended to read:

22119.2. (a) “Creditable compensation” means salary and other remuneration payable in cash by an employer to a member for creditable service. Creditable compensation shall include:

(1) Money paid in accordance with a salary schedule based on years of training and years of experience for creditable service performed up to and including the full-time equivalent for the position in which the service is performed.

(2) For members not paid according to a salary schedule, money paid for creditable service performed up to and including the full-time equivalent for the position in which the service is performed.

(3) Money paid for the member's absence from performance of creditable service as approved by the employer, except as provided in paragraph (7) of subdivision (b).

(4) Member contributions picked up by an employer pursuant to Section 22903 or 22904.

(5) Amounts deducted by an employer from the member's salary, including deductions for participation in a deferred compensation plan; deductions for the purchase of annuity contracts, tax-deferred retirement plans, or other insurance programs; and deductions for participation in a plan that meets the requirements of Section 125, 401(k), or 403(b) of Title 26 of the United States Code.

(6) Money paid by an employer in addition to salary paid under paragraph (1) or (2) if paid to all employees in a class in the same dollar amount, the same percentage of salary, or the same percentage of the amount being distributed.

(7) Money paid in accordance with a salary schedule by an employer to an employee for achieving certification from a national board awarding certifications, in which eligibility for this certification is based, in part, on years of training or years of experience in teaching service, if the compensation is paid by the employer to all employees who achieved this certification.

(8) Any other payments the board determines to be "creditable compensation."

(b) "Creditable compensation" does not mean and shall not include:

(1) Money paid for service performed in excess of the full-time equivalent for the position.

(2) Money paid for overtime or summer school service, or money paid for the aggregate service performed as a member of the Defined Benefit Program in excess of one year of service credit for any one school year.

(3) Money paid for service that is not creditable service pursuant to Section 22119.5.

(4) Money paid by an employer in addition to salary paid under paragraph (1) or (2) of subdivision (a) if not paid to all employees in a class in the same dollar amount, the same percentage of salary, or the same percentage of the amount being distributed, except as provided in paragraph (7) of subdivision (a).

(5) Fringe benefits provided by an employer.

(6) Job-related expenses paid or reimbursed by an employer.

(7) Money paid for unused accumulated leave.

(8) Severance pay or compensatory damages or money paid to a member in excess of salary as a compromise settlement.

(9) Annuity contracts, tax-deferred retirement programs, or other insurance programs, including, but not limited to, plans that meet the requirements of Section 125, 401(k), or 403(b) of Title 26 of the

United States Code that are purchased by an employer for the member and are not deducted from the member's salary.

(10) Any payments determined by the board to have been made by an employer for the principal purpose of enhancing a member's benefits under the Defined Benefit Program. An increase in the salary of a member who is the only employee in a class pursuant to subdivision (b) of Section 22112.5 that arises out of an employer's restructuring of compensation during the member's final compensation period shall be presumed to have been granted for the principal purpose of enhancing benefits under the Defined Benefit Program and shall not be creditable compensation. If the board determines sufficient evidence is provided to the system to rebut this presumption, the increase in salary shall be deemed creditable compensation.

(11) Any other payments the board determines not to be "creditable compensation."

(c) Any employer or person who knowingly or willfully reports compensation in a manner inconsistent with subdivision (a) or (b) shall reimburse the plan for any overpayment of benefits that occurs because of that inconsistent reporting and may be subject to prosecution for fraud, theft, or embezzlement in accordance with the Penal Code. The system may establish procedures to ensure that compensation reported by an employer is in compliance with this section.

(d) The definition of "creditable compensation" in this section is designed in accordance with sound funding principles that support the integrity of the retirement fund. These principles include, but are not limited to, consistent treatment of compensation throughout the career of the individual member, consistent treatment of compensation for an entire class of employees, the prevention of adverse selection, and the exclusion of adjustments to, or increases in, compensation for the principal purpose of enhancing benefits.

(e) This section shall be deemed to have become operative on July 1, 1996.

SEC. 11. Section 22128 of the Education Code is amended to read:

22128. "Early retirement" and "early retirement age" mean the age of 55 years, which is the age upon attainment of which the member becomes eligible for a service retirement allowance with reduction because of age and without special qualifications.

SEC. 12. Section 22134 of the Education Code is amended to read:

22134. (a) "Final compensation" means the highest average annual compensation earnable by a member during any period of three consecutive school years while an active member of the Defined Benefit Program or time during which he or she was not a member but for which the member has received credit under the Defined Benefit Program, except time that was so credited for service performed outside this state prior to July 1, 1944. The last

three consecutive years of employment shall be used by the system in determining final compensation unless designated to the contrary in writing by the member.

(b) For purposes of this section, periods of service separated by breaks in service may be aggregated to constitute a period of three consecutive years, if the periods of service are consecutive except for the breaks.

(c) The determination of final compensation of a member who has concurrent membership in another retirement system pursuant to Section 22115.2 shall take into consideration the compensation earnable while a member of the other system, provided that all of the following exist:

(1) The member was in state service or in the employment of a local school district or a county superintendent of schools.

(2) Service under the other system was not performed concurrently with service under the Defined Benefit Program.

(3) Retirement under the Defined Benefit Program is concurrent with the member's retirement under the other system.

(d) The compensation earnable for the first position in which California service was credited shall be used when additional compensation earnable is required to accumulate three consecutive years for the purpose of determining final compensation under Section 23805.

(e) If a member has received service credit for part-time service performed prior to July 1, 1956, the member's final compensation shall be adjusted for that service in excess of one year by the ratio that part-time service bears to full-time service.

(f) The board may specify a different final compensation with respect to disability allowances, disability retirement allowances, family allowances, and children's portions of survivor benefit allowances payable on and after January 1, 1978. The compensation earnable for periods of part-time service shall be adjusted by the ratio that part-time service bears to full-time service.

(g) The amendment of former Section 22127 made by Chapter 782 of the Statutes of 1982 does not constitute a change in, but is declaratory of, the existing law.

SEC. 13. Section 22135 of the Education Code is amended to read:

22135. (a) Notwithstanding subdivisions (a) and (b) of Section 22134, "final compensation" means the highest annual compensation earnable by an active member who is a classroom teacher who retires, becomes disabled, or dies, after June 30, 1990, during any period of 12 consecutive months during his or her membership in the plan's Defined Benefit Program. The last 12 consecutive months of employment shall be used by the system in determining final compensation unless designated to the contrary in writing by the member.

(b) Section 22134, except subdivision (a) of that section, shall apply to classroom teachers who retire after June 30, 1990, and any statutory reference to Section 22134 or “final compensation” with respect to a classroom teacher who retires, becomes disabled, or dies, after June 30, 1990, shall be deemed to be a reference to this section.

(c) As used in this section, “classroom teacher” means any of the following:

(1) All teachers and substitute teachers in positions requiring certification qualifications who spend, during the last 10 years of their employment with the same employer which immediately precedes their retirement, 60 percent or more of their contract time each year providing direct instruction. For the purpose of determining continuity of employment within the meaning of this subdivision, an authorized leave of absence for sabbatical or illness or other collectively bargained or employer-approved leaves shall not constitute a break in service.

(2) Other certificated personnel who spend, during the last 10 years of their employment with the same employer that immediately precedes their retirement, 60 percent or more of their contract time each year providing direct services to pupils, including, but not limited to, librarians, counselors, nurses, speech therapists, resource specialists, audiologists, audiometrists, hygienists, optometrists, psychologists, driver safety instructors, and personnel on special assignment to perform school attendance and adjustment services.

(d) As used in this section, “classroom teacher” does not include any of the following:

(1) Certificated employees whose job descriptions require an administrative credential.

(2) Certificated employees whose job descriptions include responsibility for supervision of certificated staff.

(3) Certificated employees who serve as advisers, coordinators, consultants, or developers or planners of curricula, instructional materials, or programs, who spend, during the last 10 years of their employment with the same employer that immediately precedes their retirement, less than 60 percent of their contract time in direct instruction.

(4) Certificated employees whose job descriptions require provision of direct instruction or services, but who are functioning in nonteaching assignments.

(5) Classified employees.

(e) This section shall apply only to teachers employed by an employer that has, pursuant to Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code, entered into a written agreement with an exclusive representative, that makes this section applicable to all of its classroom teachers, as defined in subdivision (c).

(f) The written agreement shall include a mechanism to pay for all increases in allowances provided for by this section through employer contributions or employee contributions or both, which shall be collected and retained by the employer in a trust fund to be used solely and exclusively to pay the system for all increases in allowances provided by this section and related administrative costs; and a mechanism for disposition of the employee's contributions if employment is terminated before retirement, and for the establishment of a trust fund board. The trust fund board shall administer the trust fund and shall be composed of an equal number of members representing classroom teachers chosen by the bargaining agent and the employer. If the employer agrees to pay the total cost of increases in allowances, the establishment of a trust fund and a trust fund board shall be optional to the employer. The employer, within 30 days of receiving an invoice from the system, shall reimburse the retirement fund the amount determined by the Teachers' Retirement Board to be the actuarial equivalent of the difference between the allowance the member or beneficiary receives pursuant to this section and the allowance the member or beneficiary would have received if the member's final compensation had been computed under Section 22134 and the proportionate share of the cost to the plan's Defined Benefit Program, as determined by the Teachers' Retirement Board, of administering this section. The payment shall include the cost of all increases in allowances provided for by this section for all years of service credited to the member as of the benefit effective date. Interest shall be charged at the regular interest rate for any payment not received within 30 days of receipt of the invoice. Payments not received within 30 days after receipt of the invoice may be collected pursuant to Section 23007.

(g) Upon the execution of the agreement, the employer shall notify all certificated employees of the agreement and any certificated employee of the employer, who is a member of the Public Employees' Retirement System pursuant to Section 22508, that he or she may, within 60 days following the date of notification, elect to terminate his or her membership in the Public Employees' Retirement System and become a member of this plan's Defined Benefit Program. However, only service credited under the Defined Benefit Program subsequent to the date of that election shall be subject to this section.

(h) An employer that agrees to become subject to this section, shall, on a form and within the timeframes prescribed by the system, certify the applicability of this section to a member pursuant to the criteria set forth in this section when a retirement, disability, or family allowance becomes payable.

(i) For a nonmember spouse, final compensation shall be determined pursuant to paragraph (2) of subdivision (c) of Section 22664. The employer, within 30 days of receiving an invoice from the



system, shall reimburse the retirement fund pursuant to subdivision (f). Interest shall be charged at the regular interest rate for payments not received within the prescribed timeframe. Payments not received within 30 days of invoicing may be collected pursuant to Section 23007.

SEC. 14. Section 22136 of the Education Code is amended to read:

22136. (a) “Final compensation” with respect to a member whose salary while an active member was reduced because of a reduction in school funds means the highest average annual compensation earnable by the member during any three years while employed to perform creditable service subject to coverage by the Defined Benefit Program if the member elects to be subject to this section.

(b) For the purposes of this section, a year shall be considered to be a period of 12 consecutive months.

SEC. 15. Section 22138.5 of the Education Code is amended to read:

22138.5. (a) “Full time” means the days or hours of creditable service the employer requires to be performed by a class of employees in a school year in order to earn the compensation earnable as defined in Section 22115 and specified under the terms of a collective bargaining agreement or employment agreement. For the purpose of crediting service under this part, “full time” shall not be less than the minimum standards specified in this section.

(b) The minimum standard for full time in kindergarten through grade 12 shall be:

(1) One hundred seventy-five days per year or 1,050 hours per year, except as provided in paragraphs (2) and (3).

(2) (A) One hundred ninety days per year or 1,520 hours per year for all principals and program managers, including advisers, coordinators, consultants, and developers or planners of curricula, instructional materials, or programs, and for administrators, except as provided in subparagraph (B).

(B) Two hundred fifteen days per year or 1,720 hours per year including school and legal holidays pursuant to the policy adopted by the employer’s governing board for administrators at a county office of education.

(3) One thousand fifty hours per year for teachers in adult education programs.

(c) The minimum standard for full time in community colleges shall be:

(1) One hundred seventy-five days per year or 1,050 hours per year, except as provided in paragraphs (2), (3), (4), (5), and (6). Full time shall include time for duties the employer requires to be performed as part of the full-time assignment for a particular class of employees.

(2) One hundred ninety days per year or 1,520 hours per year for all program managers and for administrators, except as provided in paragraph (3).

(3) Two hundred fifteen days per year or 1,720 hours per year including school and legal holidays pursuant to the policy adopted by the employer's governing board for administrators at a district office.

(4) One hundred seventy-five days per year or 1,050 hours per year for all counselors and librarians.

(5) Five hundred twenty-five instructional hours per year for all instructors employed on a part-time basis. If an instructor receives compensation for office hours pursuant to Article 10 (commencing with Section 87880) of Chapter 3 of Part 51, then the minimum standard established herein shall be increased appropriately by the number of office hours required annually for the class of employees.

(6) Eight hundred seventy-five instructional hours per year for all adult education instructors. If an instructor receives compensation for office hours pursuant to Article 10 (commencing with Section 87880) of Chapter 3 of Part 51, then the minimum standard established herein shall be increased appropriately by the number of office hours required annually for the class of employees.

(d) The board shall have final authority to determine full time for purposes of crediting service under this part if full time is not otherwise specified herein.

SEC. 16. Section 22147.5 of the Education Code is amended to read:

22147.5. "Nonqualified service" means time during which creditable service subject to coverage by the Defined Benefit Program is not performed, excluding time a member is eligible to purchase as permissive or additional service credit pursuant to Chapter 14 (commencing with Section 22800), Chapter 14.2 (commencing with Section 22820), and Chapter 14.5 (commencing with Section 22850).

SEC. 17. Section 22148 of the Education Code is amended to read:

22148. "Normal retirement" and "normal retirement age" mean the age of 60 years, which is the age upon attainment of which the member becomes eligible for a service retirement allowance without reduction because of age and without special qualifications.

SEC. 18. Section 22156.1 is added to the Education Code, to read:

22156.1. "Present value," for purposes of Section 22723, means the amount of money needed on the effective date of retirement to reimburse the system for the actuarially determined cost of the portion of a member's retirement allowance attributable to unused excess sick leave days. The present value on the effective date of retirement shall equal the number of unused excess sick leave days divided by the number of base days, multiplied by the prior year's compensation earnable multiplied by the present value factor.

SEC. 19. Section 22156.2 is added to the Education Code, to read:

22156.2. “Present value factor,” for purposes of Section 22156.1, means an overall average rate based upon the demographics of members who recently retired under the Defined Benefit Program and regular interest that shall determine present value on the effective date of retirement.

SEC. 20. Section 22156.5 is added to the Education Code, to read:

22156.5. “Prior year’s compensation earnable” means the compensation earnable for the most recent school year in which the member earned service credit that precedes the last school year in which the member earned service credit.

SEC. 21. Section 22161 of the Education Code is amended to read:

22161. “Public school” means any day or evening elementary school, any day or evening secondary school, community college, technical school, kindergarten school, and prekindergarten school established by the Legislature, or by municipal or district authority.

SEC. 22. Section 22163 of the Education Code is amended to read:

22163. “Reinstatement” means the change in status with respect to the Defined Benefit Program under this part from a disabled or retired member to an active or inactive member and termination of one of the following:

- (a) A service retirement allowance pursuant to Section 24208.
- (b) A disability retirement allowance pursuant to Section 24117.
- (c) A disability allowance pursuant to Section 24004 or 24015.
- (d) A service retirement allowance or disability retirement allowance pursuant to Section 23404.

SEC. 23. Section 22170.5 is added to the Education Code, to read:

22170.5. (a) “Sick leave days” means the number of days of accumulated and unused leave of absence for illness or injury.

(b) “Basic sick leave day” means the equivalent of one day’s paid leave of absence per pay period due to illness or injury.

(c) “Excess sick leave days” means the day or total number of days, granted by an employer in a pay period as defined in Section 22154 after June 30, 1986, for paid leave of absence due to illness or injury, in excess of a basic sick leave day.

SEC. 24. Section 22306 of the Education Code is amended to read:

22306. (a) Information filed with the system by a member, participant, or beneficiary of the plan is confidential and shall be used by the system for the sole purpose of carrying into effect the provisions of this part. No official or employee of the system who has access to the individual records of a member, participant, or beneficiary shall divulge any confidential information concerning those records to any person except in the following instances:

- (1) To the member, participant, or beneficiary to whom the information relates.
- (2) To the authorized representative of the member, participant, or beneficiary.

(3) To the governing board of the member's or participant's current or former employer.

(4) To any department, agency, or political subdivision of this state.

(5) To other individuals as necessary to locate a person to whom a benefit may be payable.

(6) Pursuant to subpoena.

(b) Information filed with the system in a beneficiary designation form may be released after the death of the member or participant to those persons who may provide information necessary for the distribution of benefits.

(c) The information is not open to inspection by anyone except the board and its officers and employees of the system, and any person authorized by the Legislature to make inspections.

SEC. 25. Section 22327 of the Education Code is amended to read:

22327. Notwithstanding any other provision of law, the Employment Development Department shall disclose to the board information in its possession relating to the earnings of any person who is receiving a disability benefit under the Defined Benefit Program. The earnings information shall be released to the board only upon written request from the board specifying that the person is receiving disability benefits under the Defined Benefit Program. The request may be made by the chief executive officer of the system or by an employee of the system so authorized and identified by name and title by the chief executive officer in writing. The board shall notify recipients of disability benefits that earnings information shall be obtained from the Employment Development Department upon request by the board. The board shall not release any earnings information received from the Employment Development Department to any person, agency, or other entity. The system shall reimburse the Employment Development Department for all reasonable administrative expenses incurred pursuant to this section.

SEC. 26. Section 22360 of the Education Code is amended to read:

22360. (a) Notwithstanding any other provision of law, the board may pursuant to Section 22203 and in conformance with its fiduciary duty set forth in Section 22250, enter into correspondent agreements with private lending institutions in this state to utilize the retirement fund to invest in residential mortgages, including assisting borrowers, through financing, to obtain homes in this state.

(b) The program shall, among other things, provide:

(1) That home loans be made available to borrowers for the purchase of single-family dwellings, two-family dwellings, three-family dwellings, four-family dwellings, single-family cooperative apartments, and single-family condominiums.

(2) That the recipients of the loans occupy the homes as their principal residences in accordance with policies established by the board.

(3) That the home loans shall be available only for the purchase or refinance of homes in this state.

(4) That the amount and length of the loans shall be pursuant to a schedule periodically established by the board that shall provide a loan of up to 100 percent of the appraised value. In no event shall the loan amount exceed three hundred fifty thousand dollars (\$350,000). The portion of any loan exceeding 80 percent of value shall be insured by an admitted mortgage guaranty insurer conforming to Chapter 2A (commencing with Section 12640.01) of Part 6 of Division 2 of the Insurance Code, in an amount so that the unguaranteed portion of the loan does not exceed 75 percent of the market value of the property together with improvements thereon.

(5) That there may be prepayment penalties assessed on the loans in accordance with policies established by the board.

(6) That the criteria and terms for its loans shall be consistent with the financial integrity of the program and the sound investment of the retirement fund.

(7) Any other terms and conditions as the board shall deem appropriate.

(c) It is the intent of the Legislature that the provisions of this section be used to establish an investment program for residential mortgages, including assisting borrowers in purchasing homes in this state, or refinancing a mortgage loan. The Legislature intends that home loans made pursuant to this section shall be secured primarily by the property purchased or refinanced and shall not exceed the appraised value of that property.

(d) Appropriate administrative costs of implementing this section and Section 22360.5 shall be paid by the participating borrowers. Those costs may be included in the loan amount.

(e) Appropriate interest rates shall be periodically reviewed and adjusted to provide loans to borrowers consistent with the financial integrity of the home loan program and the sound and prudent investment of the retirement fund. Under no circumstances, however, shall the interest rates offered to borrowers be below current market rate.

(f) The board shall administer this section and Section 22360.5 under other terms and conditions it deems appropriate and in keeping with the investment standard. The board may adopt policies as necessary for its administration of this section and Section 22360.5 and to assure compliance with applicable state and federal laws.

(g) This section and Section 22360.5 shall be known as, and may be cited as, the Dave Elder State Teachers' Retirement System Home Loan Program Act.

SEC. 27. Section 22360.5 is added to the Education Code, to read:

22360.5. (a) The board may include in any investment program established pursuant to Section 22360 a procedure whereby a

member may obtain 100 percent financing for the purchase for a single-family dwelling unit in accordance with the following criteria:

(1) The member shall obtain one loan secured by the purchased home, pursuant to Section 22360, and a second personal loan secured by a portion of the accumulated retirement contributions in the member's individual account. The personal loan shall only be used for the purchase of the member's principal residence and not for a loan to refinance the member's existing mortgage.

(2) The loan secured by the purchased home shall be consistent with the requirements imposed by Section 22360.

(3) In no event may the personal loan secured by the accumulated retirement contributions in the member's individual account exceed the lesser of 50 percent of the current value amount of the accumulated retirement contributions or fifty thousand dollars (\$50,000).

(4) If two members are married, the personal loan secured by the sum total of accumulated retirement contributions in both members' accounts shall not exceed 5 percent of the loan.

(5) The pledge of security under this section shall remain in effect until the personal loan is paid in full.

(b) The pledge of security under this section shall take binding effect. In the event of a default on the personal loan secured by the member's retirement contributions as authorized by this section, the board shall deduct an amount from the member's accumulated retirement contributions on deposit and adjust the member's accumulated retirement contributions as necessary to recover any outstanding loan balance prior to making any disbursement of a refund or a lump-sum distribution.

(c) In the event of a default on the personal loan by a member, the board shall deduct the monthly principal plus appropriate interest from the member's benefit, when the member begins receiving a benefit, until the loan is paid in full.

(d) In the event of a default on the personal loan by a member receiving a benefit, the board shall deduct the monthly principal and interest from the member's benefit until the personal loan is paid in full.

(e) The secured personal loan permitted under this section shall be made available only to members who meet eligibility criteria as determined by the board.

(f) In the event of a refund or lump-sum distribution of the accumulated retirement contributions, the member's account shall be adjusted as necessary to recover any outstanding loan balance.

(g) If the member is married at the time the home is purchased with a personal loan secured by the member's accumulated retirement contributions as authorized by this section, then the member's spouse shall agree in writing to the pledge of security, as

to his or her community interest in the amount pledged, regardless of whether title to the home is held in joint tenancy.

(h) For purposes of the section only, “member” means any person who is entitled to receive an allowance funded by the system pursuant to this part or Part 14, notwithstanding any vesting requirement and without regard to present eligibility to retire, and who is not retired or disabled.

SEC. 28. Section 22400 of the Education Code is amended to read:

22400. (a) There is in the State Treasury a special trust fund to be known as the Teachers’ Retirement Fund. There shall be deposited in that fund the assets of the plan and its predecessors, consisting of employee contributions, employer contributions, state contributions, appropriations made to it by the Legislature, income on investments, other interest income, income from fees and penalties, donations, legacies, bequests made to it and accepted by the board, and any other amounts provided by this part and Part 14. General Fund transfers pursuant to Section 22954 shall be placed in a segregated account known as the Supplemental Benefit Maintenance Account within the retirement fund, which is continuously appropriated without regard to fiscal years, notwithstanding Section 13340 of the Government Code, for expenditure for the purposes of Section 24415.

(b) Disbursement of money from the retirement fund of whatever nature shall be made upon claims duly audited in the manner prescribed for the disbursement of other public funds except that notwithstanding the foregoing disbursements may be made to return funds deposited in the fund in error.

SEC. 29. Section 22455.5 of the Education Code is amended to read:

22455.5. (a) The Legislature finds and declares that the federal Omnibus Budget Reconciliation Act of 1990 (P.L. 101-508) requires all public employers to provide their employees with either social security coverage or membership in a qualified retirement plan.

(b) Employers shall make available criteria for membership, including optional membership, in a timely manner to all persons employed to perform creditable service subject to coverage by the Defined Benefit Program, and shall inform part-time and substitute employees, within 30 days of the date of hire, or by March 1, 1995, whichever is later, that they may elect membership in the plan’s Defined Benefit Program at any time while employed. Written acknowledgment by the employee shall be maintained in employer files on a form provided by this system.

(c) Employers shall be liable to the plan for employee and employer contributions and interest with respect to the Defined Benefit Program from the date of hire, or March 1, 1995, whichever is later, in addition to system administrative and audit costs, if an audit or a member’s complaint reveals noncompliance. However, no

employer shall be liable for employee contributions for service performed prior to January 1, 1995.

SEC. 30. Section 22457 of the Education Code is amended to read:

22457. (a) Each county superintendent shall give immediate notice in writing to the board of the employment, death, resignation, or discharge of any person employed by the county or by a school district or community college district in the county to perform creditable service subject to coverage by the Defined Benefit Program.

(b) Every other employing agency shall give similar notice with respect to each person it employs to perform creditable service subject to coverage by the Defined Benefit Program.

SEC. 31. Section 22458 of the Education Code is amended to read:

22458. Each employer shall provide the system with information regarding the compensation to be paid to employees subject to the Defined Benefit Program in that school year. The information shall be submitted annually as determined by the board and may include, but shall not be limited to, employment contracts, salary schedules, and local board minutes.

SEC. 32. Section 22459 of the Education Code is amended to read:

22459. (a) The county superintendent or other employing agency shall withhold the salary of any member who fails to file information required by the board in the administration of the Defined Benefit Program, or to pay amounts due from the members to the fund with respect to the Defined Benefit Program.

(b) The salary shall be withheld by the county superintendent or employing agency upon his or her own knowledge, if any, of the failure or upon notice from the board of the failure of the member to file or pay.

(c) The salary shall be withheld and not released until notice is given by the board to the county superintendent or employing agency, or until the county superintendent or agency knows otherwise, that the information has been filed or the payment has been made.

SEC. 33. Section 22502 of the Education Code is amended to read:

22502. (a) Any person employed to perform creditable service on a part-time basis who is not already a member of the Defined Benefit Program shall become a member as of the first day of subsequent employment to perform creditable service for 50 percent or more of the full-time equivalent for the position, unless excluded from membership pursuant to Section 22601.

(b) This section shall apply to persons who perform service subject to coverage under this part and to persons who are employed by employers who provide benefits for their employees under Part 14 (commencing with Section 26000).

(c) This section shall be deemed to have become operative on July 1, 1996.

SEC. 34. Section 22503 of the Education Code is amended to read:

22503. (a) Any person employed to perform creditable service as a substitute teacher who is not already a member of the Defined Benefit Program shall become a member as of the first day of the pay period following the pay period in which the person performed 100 or more complete days of creditable service during the school year in one school district, community college district, or county superintendent's office, unless excluded from membership pursuant to Section 22601.

(b) This section shall not apply to persons who are employed by employers who provide benefits for their employees under Part 14 (commencing with Section 26000).

(c) This section shall be deemed to have become operative on July 1, 1996.

SEC. 35. Section 22504 of the Education Code is amended to read:

22504. (a) Any person employed to perform creditable service on a part-time basis who is not already a member of the Defined Benefit Program shall become a member as of the first day of the pay period following the pay period in which the person performed at least 60 hours of creditable service, if employed on an hourly basis, or 10 days of creditable service, if employed on a daily basis, during the school year, in one school district, community college district, or county superintendent's office, unless excluded from membership pursuant to Section 22601.

(b) This section shall not apply to persons who are employed by employers who provide benefits for their employees under Part 14 (commencing with Section 26000).

(c) This section shall be deemed to have become operative on July 1, 1996.

SEC. 36. Section 22508 of the Education Code is amended to read:

22508. (a) A member who becomes employed by the same or a different school district, community college district, or a county superintendent to perform service that requires membership in a different public retirement system, may elect to have that service subject to coverage by the Defined Benefit Program of this plan and excluded from coverage by the other public retirement system. The election shall be made in writing on a form prescribed by this system within 60 days from the date of hire in the position requiring membership in the other public retirement system. If that election is made, the service performed for the employer after the date of hire shall be considered creditable service for purposes of this part.

(b) A member of the Public Employees' Retirement System who is employed by a school district, community college district, or a county superintendent and who is subsequently employed to perform creditable service subject to coverage by the Defined Benefit Program of this plan may elect to have that service subject to coverage by the Public Employees' Retirement System and

excluded from coverage by the Defined Benefit Program. The election shall be made in writing on a form prescribed by this system within 60 days from the date of hire to perform creditable service. If that election is made, creditable service performed for the employer after the date of hire shall be subject to coverage by the Public Employees' Retirement System.

(c) An election made by a member pursuant to this section shall be irrevocable.

SEC. 37. Section 22508.5 of the Education Code is amended to read:

22508.5. (a) Any person who is a member of the Defined Benefit Program of the State Teachers' Retirement Plan employed by a community college district who subsequently is employed by the Board of Governors of the California Community Colleges to perform duties that are subject to membership in a different public retirement system, shall be excluded from membership in that different system if he or she elects, in writing, and files that election in the office of the State Teachers' Retirement System within 60 days after the person's entry into the new position, to continue as a member of the Defined Benefit Program. Only a person who has achieved plan vesting is eligible to elect to continue as a member of the program.

(b) A member of the Public Employees' Retirement System who is employed by the Board of Governors of the California Community Colleges who subsequently is employed by a community college district to perform creditable service subject to coverage under the Defined Benefit Program, may elect to have that service subject to coverage by the Public Employees' Retirement System and excluded from coverage under the Defined Benefit Program pursuant to Section 20309 of the Government Code.

(c) This section shall apply to changes in employment effective on or after January 1, 1998.

SEC. 38. Section 22514 of the Education Code is amended to read:

22514. Members who have not achieved plan vesting shall become eligible for benefits under the Defined Benefit Program when total service under the Defined Benefit Program and the Public Employees' Retirement System equals the minimum required under Sections 23801 and 23804. These members shall retain vested rights to survivor and disability benefits under this plan until they qualify for the similar benefits under the Public Employees' Retirement System.

SEC. 39. Section 22516 of the Education Code is amended to read:

22516. (a) Nothing in this chapter shall be construed or applied to exclude from membership in the Defined Benefit Program any person employed to perform creditable service at a level that requires mandatory membership in the program for which he or she has the right to elect membership in the program or another

retirement system and who elects membership in the other retirement system, or who is employed to perform creditable service at a level that does not require mandatory membership in the Defined Benefit Program.

(b) Service performed after becoming a member of another retirement system shall not be credited to the member under this part, nor shall contributions or benefits under this part be based upon that service or the compensation received by the member during that period of service, except as provided in the definition of “final compensation” contained in Section 22134.

SEC. 40. Section 22601.5 of the Education Code is amended to read:

22601.5. (a) Any person employed to perform creditable service who is not already a member in the Defined Benefit Program and whose basis of employment is less than 50 percent of the full-time equivalent for the position is excluded from mandatory membership in the Defined Benefit Program.

(b) This section shall apply to persons who perform service subject to coverage under this part and to persons who are employed by employers who provide benefits for their employees under Part 14 (commencing with Section 26000).

(c) This section shall be deemed to have become operative on July 1, 1996.

SEC. 41. Section 22602 of the Education Code is amended to read:

22602. (a) Any person employed to perform creditable service as a substitute teacher who is not already a member in the Defined Benefit Program and who performs less than 100 complete days of creditable service in one school district, community college district, or county superintendent’s office during the school year is excluded from mandatory membership in the Defined Benefit Program.

(b) This section shall not apply to persons who perform service for employers who provide benefits for their employees under Part 14 (commencing with Section 26000).

(c) The amendments to this section enacted during the 1995–96 Regular Session shall be deemed to have become operative on July 1, 1996.

SEC. 42. Section 22604 of the Education Code is amended to read:

22604. (a) Any person employed to perform creditable service on a part-time basis who is not already a member in the Defined Benefit Program and who performs less than 60 hours of creditable service in a pay period if employed on an hourly basis, or less than 10 days of creditable service in a pay period if employed on a daily basis, during the school year in one school district, community college district, or county superintendent’s office is excluded from mandatory membership in the Defined Benefit Program.

(b) This section shall not apply to persons who are employed by employers who provide benefits for their employees under Part 14 (commencing with Section 26000).

(c) The amendments to this section enacted during the 1995–96 Regular Session shall be deemed to have become operative on July 1, 1996.

SEC. 43. Section 22664 of the Education Code is amended to read:

22664. The nonmember spouse who is awarded a separate account shall have the right to a service retirement allowance under this part.

(a) The nonmember spouse shall be eligible to retire for service under this part if the following conditions are satisfied:

(1) The member had at least five years of credited service during the period of marriage, at least one year of which had been performed subsequent to the most recent refund to the member of accumulated retirement contributions. The credited service may include service credited to the account of the member as of the date of the dissolution or legal separation, previously refunded service, out-of-state service, and permissive service credit that the member is eligible to purchase at the time of the dissolution or legal separation.

(2) The nonmember spouse has at least two and one-half years of credited service in his or her separate account.

(3) The nonmember spouse has attained the age of 55 years or more.

(b) A service retirement allowance of a nonmember spouse under this part shall become effective upon any date designated by the nonmember spouse, provided:

(1) The requirements of subdivision (a) are satisfied.

(2) The nonmember spouse has filed an application for service retirement on a form provided by the system, that is executed no earlier than six months before the effective date of the retirement allowance.

(3) The effective date is no earlier than the first day of the month in which the application is received at the system's office in Sacramento and the effective date is after the date the judgment or court order pursuant to Section 22652 was entered.

(c) (1) Upon service retirement at normal retirement age under this part, the nonmember spouse shall receive a retirement allowance that shall consist of an annual allowance payable in monthly installments equal to 2 percent of final compensation for each year of credited service.

(2) If the nonmember spouse's retirement is effective at less than normal retirement age and between early retirement age under this part and normal retirement age, the retirement allowance shall be reduced by one-half of 1 percent for each full month, or fraction of

a month, that will elapse until the nonmember spouse would have reached normal retirement age.

(3) If the nonmember spouse's service retirement is effective at an age greater than normal retirement age and is effective on or after January 1, 1999, the percentage of final compensation for each year of credited service shall be determined pursuant to the following table:

Age at Retirement	Percentage
60 $\frac{1}{4}$	2.033
60 $\frac{1}{2}$	2.067
60 $\frac{3}{4}$	2.10
61	2.133
61 $\frac{1}{4}$	2.167
61 $\frac{1}{2}$	2.20
61 $\frac{3}{4}$	2.233
62	2.267
62 $\frac{1}{4}$	2.30
62 $\frac{1}{2}$	2.333
62 $\frac{3}{4}$	2.367
63 and over	2.40

(4) In computing the retirement allowance of the nonmember spouse, the age of the nonmember spouse on the last day of the month in which the retirement allowance begins to accrue shall be used.

(5) Final compensation, for purposes of calculating the service retirement allowance of the nonmember spouse under this subdivision, shall be calculated according to the definition of final compensation in Section 22134, 22135, or 22136, whichever is applicable, and shall be based on the compensation earnable of the member up to the date the parties separated, as established in the judgment or court order pursuant to Section 22652.

The nonmember spouse shall not be entitled to use any other calculation of final compensation.

(d) If the member is or was receiving a disability allowance under this part with an effective date before or on the date the parties separated as established in the judgment or court order pursuant to Section 22652, or at any time applies for and receives a disability allowance with an effective date that is before or coincides with the date the parties separated as established in the judgment or court order pursuant to Section 22652, the nonmember spouse shall not be eligible to retire until after the disability allowance of the member terminates.

If the member who is or was receiving a disability allowance returns to employment to perform creditable service subject to

coverage under the Defined Benefit Program or has his or her allowance terminated under Section 24015, the nonmember spouse may not be paid a retirement allowance until at least six months after termination of the disability allowance and the return of the member to employment to perform creditable service subject to coverage under the Defined Benefit Program, or the termination of the disability allowance and the employment or self-employment of the member in any capacity, notwithstanding Section 22132. If at the end of the six-month period, the member has not had a recurrence of the original disability or has not had his or her earnings fall below the amounts described in Section 24015, the nonmember spouse may be paid a retirement allowance if all other eligibility requirements are met.

(1) The retirement allowance of the nonmember spouse under this subdivision shall be calculated as follows: the disability allowance the member was receiving, exclusive of the benefits for dependent children, shall be divided between the share of the member and the share of the nonmember spouse. The share of the nonmember spouse shall be the amount obtained by multiplying the disability allowance, exclusive of the benefits for dependent children, by the years of service credited to the separate account of the nonmember spouse, including service projected to the date of separation, and dividing by the projected service of the member. The nonmember spouse's retirement allowance shall be the lesser of the share of the nonmember spouse under this subdivision or the retirement allowance under subdivision (c).

(2) The share of the member shall be the total disability allowance reduced by the share of the nonmember spouse. The share of the member shall be considered the disability allowance of the member for purposes of Section 24213.

(e) The nonmember spouse who receives a retirement allowance is not a retired member under this part. However, the allowance of the nonmember spouse shall be increased by application of the improvement factor and shall be eligible for the application of supplemental increases and other benefit maintenance provisions under this part, including, but not limited to, Sections 24411, 24412, and 24415 based on the same criteria used for the application of these benefit maintenance increases to the service retirement allowances of members.

SEC. 44. Section 22713 of the Education Code is amended to read:

22713. (a) Notwithstanding any other provision of this chapter, the governing board of a school district or a community college district or a county superintendent of schools may establish regulations that allow an employee who is a member of the Defined Benefit Program to reduce his or her workload from full time to part time, and receive the service credit the member would have received if the member had been employed on a full-time basis and



have his or her retirement allowance, as well as other benefits that the member is entitled to under this part, based, in part, on final compensation determined from the compensation earnable the member would have been entitled to if the member had been employed on a full-time basis.

(b) The regulations shall include, but shall not be limited to, the following:

(1) The option to reduce the member's workload shall be exercised at the request of the member and can be revoked only with the mutual consent of the employer and the member.

(2) The member shall have been employed full time to perform creditable service subject to coverage under the Defined Benefit Program for at least 10 years including five years immediately preceding the reduction in workload.

(3) The member shall not have had a break in service during the five years immediately preceding the reduction in workload. For purposes of this subdivision, sabbaticals and other approved leaves of absence shall not constitute a break in service. However, time spent on a sabbatical or other approved leave of absence shall not be used in computing the five-year full-time service requirement prescribed by this subdivision.

(4) The member shall have reached the age of 55 years prior to the reduction in workload.

(5) The reduced workload shall be performed for a period of time, as specified in the regulations. The period of time specified in the regulations shall not exceed 10 years.

(6) The reduced workload shall be equal to at least one-half of the full-time equivalent required by the member's contract of employment during his or her final year of full-time employment.

(7) The member shall be paid creditable compensation that is the pro rata share of the creditable compensation the member would have been paid had the member not reduced his or her workload.

(c) Prior to the reduction of a member's workload under this section, the employer in conjunction with the administrative staff of the State Teachers' Retirement System and the Public Employees' Retirement System, shall verify the member's eligibility for the reduced workload program.

(d) The member shall make contributions to the Teachers' Retirement Fund in the amount that the member would have contributed had the member performed creditable service on a full-time basis subject to coverage under the Defined Benefit Program.

(e) The employer shall contribute to the Teachers' Retirement Fund at a rate adopted by the board as a plan amendment with respect to the Defined Benefit Program an amount based upon the creditable compensation that would have been paid to the member

had the member performed creditable service on a full-time basis subject to coverage under the Defined Benefit Program.

(f) The employer shall maintain the necessary records to separately identify each member who participates in the reduced workload program pursuant to this section.

SEC. 45. Section 22714 of the Education Code is amended to read:

22714. (a) Whenever the governing board of a school district or a community college district or a county office of education, by formal action taken prior to January 1, 1999, determines pursuant to Section 44929 or 87488 that because of impending curtailment of or changes in the manner of performing services, the best interests of the district or county office of education would be served by encouraging certificated employees or academic employees to retire for service and that the retirement will either: result in a net savings to the district or county office of education; result in a reduction of the number of certificated employees or academic employees as a result of declining enrollment; or result in the retention of certificated employees who are credentialed to teach in, or faculty who are qualified to teach in, teacher shortage disciplines, including, but not limited to, mathematics and science, an additional two years of service credit shall be granted under this part to a member of the Defined Benefit Program if all of the following conditions exist:

(1) The member is credited with five or more years of service credit and retires for service under the provisions of Chapter 27 (commencing with Section 24201) during a period of not more than 120 days or less than 60 days, commencing no sooner than the effective date of the formal action of the employer that shall specify the period.

(2) The employer transfers to the retirement fund an amount determined by the Teachers' Retirement Board to equal the actuarial equivalent of the difference between the allowance the member receives after receipt of service credit pursuant to this section and the amount the member would have received without the service credit and an amount determined by the Teachers' Retirement Board to equal the actuarial equivalent of the difference between the purchasing power protection supplemental payment the member receives after receipt of service credit pursuant to this section and the amount the member would have received without the service credit. The payment for purchasing power shall be deposited in the Supplemental Benefit Maintenance Account established by Section 22400 and shall be subject to Section 24415. The transfer to the retirement fund shall be made in a manner, and time period not to exceed four years, that is acceptable to the Teachers' Retirement Board. The employer shall transfer the required amount for all eligible employees who retire pursuant to this section.

(3) The employer transmits to the retirement fund the administrative costs incurred by the system in implementing this section, as determined by the Teachers' Retirement Board.

(4) The employer has considered the availability of teachers or academic employees to fill the positions that would be vacated pursuant to this section.

(b) (1) The school district shall demonstrate and certify to the county superintendent that the formal action taken would result in either: (A) a net savings to the district; (B) a reduction of the number of certificated employees as a result of declining enrollment, as computed pursuant to Section 42238.5; or (C) the retention of certificated employees who are credentialed to teach in teacher shortage disciplines.

(2) The county superintendent shall certify to the Teachers' Retirement Board that a result specified in paragraph (1) can be demonstrated. The certification shall include, but not be limited to, the information specified in subdivision (b) of Section 14502. A district that qualifies under subparagraph (B) of paragraph (1) shall also certify that it qualifies as a declining enrollment district as computed pursuant to Section 42238.5.

(3) The school district shall reimburse the county superintendent for all costs to the county superintendent that result from the certification.

(c) (1) The county office of education shall demonstrate and certify to the Superintendent of Public Instruction that the formal action taken would result in either: (A) a net savings to the county office of education; (B) a reduction of the number of certificated employees as a result of declining enrollment; or (C) the retention of certificated employees who are credentialed to teach in teacher shortage disciplines.

(2) The Superintendent of Public Instruction shall certify to the Teachers' Retirement Board that a result specified in paragraph (1) can be demonstrated. The certification shall include, but not be limited to, the information specified in subdivision (b) of Section 14502.

(3) The Superintendent of Public Instruction may request reimbursement from the county office of education for all administrative costs that result from the certification.

(d) (1) The community college district shall demonstrate and certify to the chancellor's office that the formal action taken would result in either: (A) a net savings to the district; (B) a reduction in the number of academic employees as a result of declining enrollment, as computed pursuant to subdivision (c) of Section 84701; or (C) the retention of faculty who are qualified to teach in teacher shortage disciplines.

(2) The chancellor shall certify to the Teachers' Retirement Board that a result specified in paragraph (1) can be demonstrated. The

certification shall include, but not be limited to, the information specified in subdivision (c) of Section 84040.5. A community college district that qualifies under subparagraph (B) of paragraph (1) of subdivision (b) of this section shall also certify that it qualifies as a declining enrollment district as computed pursuant to subdivision (c) of Section 84701.

(3) The chancellor may request reimbursement from the community college for all administrative costs that result from the certification.

(e) The opportunity to be granted service credit pursuant to this section shall be available to all members employed by the school district, community college district, or county office of education who meet the conditions set forth in this section.

(f) The amount of service credit shall be two years.

(g) Any member of the Defined Benefit Program who retires under this part for service under the provisions of Chapter 27 (commencing with Section 24201) with service credit granted under this section and who subsequently reinstates shall forfeit the service credit granted under this section.

(h) This section shall not be applicable to any member otherwise eligible if the member receives any unemployment insurance payments arising out of employment with an employer subject to this part during a period extending one year beyond the effective date of the formal action, or if the member is not otherwise eligible to retire for service.

SEC. 46. Section 22717 of the Education Code is amended to read:

22717. (a) A member shall be granted credit at service retirement for each day of accumulated and unused leave of absence for illness or injury for which full salary is allowed to which the member was entitled on the member's final day of employment with the employer by which the member was last employed to perform creditable service subject to coverage by the Defined Benefit Program.

(b) The amount of service credit to be granted shall be determined by dividing the number of days of accumulated and unused leave of absence for illness or injury by the number of days of service the employer requires the member's class of employees to perform in a school year during the member's final year of creditable service subject to coverage by the Defined Benefit Program, which shall not be less than the minimum standard specified in Section 22138.5. The number of days shall not include school and legal holidays. In no event shall the divisor be less than 175. For members employed less than full time, the standards identified in Section 22138.5 shall be considered as the minimum full-time equivalent. For those standards identified in Section 22138.5 that are applicable to teachers or instructors and that are expressed only in terms of hours

or instructional hours, the number of hours or instructional hours shall be divided by six to determine the number of days.

(c) When the member has made application for service retirement under this part, the employer shall certify to the board, within 30 days following the effective date of the member's service retirement, the number of days of accumulated and unused leave of absence for illness or injury that the member was entitled to on the final day of employment. The board may assess a penalty on delinquent reports.

(d) This section shall be applicable to any person who retires on or after January 1, 1999.

SEC. 47. Section 22718 of the Education Code is amended to read:

22718. (a) The Teachers' Retirement Board shall bill school employers for service credit granted for unused excess sick leave under this part, subject to the following provisions:

(1) (A) In addition to the certification of sick leave days, the employer shall also certify the number of unused excess sick leave days.

(B) Excess sick leave days granted by an employer other than the member's last employer shall be deemed to be granted by the last employer and shall be included in the certification if the member was eligible to use those excess sick leave days while he or she was employed by the last employer.

(2) The billing shall be authorized only if the employer grants more than one day of sick leave per pay period of at least four weeks to members of the Defined Benefit Program.

(3) The employer shall be billed only for the present value of the unused excess sick leave days and any subsequent adjustments to the billing shall be billed or refunded, as appropriate, to the employer.

(4) (A) The employer shall remit the amount billed to the system with the certification required by Section 22717 within 30 days after the effective date of the member's retirement or within 30 days after the date the system has notified the employer that a certification must be made, whichever is later.

(B) If payment is not received within 30 days, the present value shall be recalculated to include regular interest from the due date to the date full payment is received.

(C) If the system has billed the employer for an additional amount, the employer shall remit the additional amount within 30 days after the date of the billing. If payment is not received for the additional amount within 30 days, the present value shall be recalculated to include regular interest from the due date to the date full payment is received.

(b) If a school employer fails to pay a bill charged according to subdivision (a), the Teachers' Retirement Board may request the Superintendent of Public Instruction or the Chancellor of the California Community Colleges, as appropriate, to reduce state

apportionments to the school employer by an amount equal to the amount billed. The superintendent or chancellor shall make the reduction, and if requested by the board, direct the Controller to reduce the amount transferred from the General Fund to Section A or Section B, as appropriate, of the State School Fund by an equal amount, which shall instead be transferred to the Teachers' Retirement Fund.

SEC. 48. Section 22724 is added to the Education Code, to read:

22724. (a) To determine the number of excess sick leave days to which a member is entitled when he or she retires, the employer shall deduct the days of sick leave used by the member from the member's accumulated and unused sick leave balance according to the following method:

(1) Sick leave usage shall first be deducted from the accumulated and unused sick leave balance existing on July 1, 1986.

(2) Sick leave usage shall next be deducted from basic sick leave days granted to the member by an employer after June 30, 1986.

(3) Sick leave usage shall then be deducted from any excess sick leave days granted to the member by an employer after June 30, 1986.

(b) Upon request from the board, the employer shall submit sick leave records of past years for audit purposes.

SEC. 49. Section 22801 of the Education Code is amended to read:

22801. (a) A member who elects to receive additional service credit as provided in this chapter shall pay, prior to retirement, all contributions with respect to that service at the contribution rate for additional service credit, adopted by the board as a plan amendment, in effect at the time of election. If the system is unable to inform the member or beneficiary of the amount required to purchase additional service credit prior to the effective date of the applicable allowance, the member or beneficiary may make the required payment within 30 working days after the date of mailing of the statement of contributions and interest required or the effective date of the appropriate allowance, whichever is later. The payment shall be paid in full before a member or beneficiary receives any adjustment in the appropriate allowance due because of that payment. Contributions shall be made in a lump sum, or in not more than 120 monthly installments. No installment, except the final installment, shall be less than twenty-five dollars (\$25).

(b) If the member is employed to perform creditable service subject to coverage by the Defined Benefit Program at the time of the election, the contributions shall be based upon the compensation earnable in the current school year or either of the two immediately preceding school years, whichever is highest.

(c) If the member is not employed to perform creditable service subject to coverage by the Defined Benefit Program at the time of the election, the contributions shall be based upon the compensation

earnable in the last school year of credited service or either of the two immediately preceding school years, whichever is highest.

(d) The employer may pay the amount required as employer contributions for additional service credited under paragraphs (2), (6), (7), (8), and (9) of subdivision (a) of Section 22803.

(e) The Public Employees' Retirement System shall transfer the actuarial present value of the assets of a person who makes an election pursuant to paragraph (10) of subdivision (a) of Section 22803.

(f) Regular interest shall be charged on all contributions from the end of the school year on which the contributions were based to the date of payment.

(g) Regular interest shall be charged on the monthly unpaid balance if the member pays in installments. Regular interest shall not be charged or be payable for the period of a delay caused by the system's inability or failure to determine and inform the member or beneficiary of the amount of contributions and interest that is payable. The period of delay shall commence on the 20th day following the day on which the member or beneficiary who wishes to make payment evidences in writing to the system that he or she is ready, willing, and able to make payment to the system. The period of delay shall cease on the first day of the month following the mailing of notification of contributions and interest payable.

SEC. 50. Section 22803 of the Education Code is amended to read:

22803. (a) A member may elect to receive credit for any of the following:

(1) Service performed in a teaching position in a publicly supported and administered university or college in this state.

(2) Service performed in a certificated teaching position in a child care center operated by a county superintendent of schools or a school district in this state.

(3) Service performed in a teaching position in the California School for the Deaf or the California School for the Blind, or in special classes maintained by the public schools of this state for the instruction of the deaf, the hard of hearing, the blind, or the semisighted.

(4) Service performed in a certificated teaching position in a federally supported and administered Indian school in this state.

(5) Time served, not to exceed two years, in a certificated teaching position in a job corps center administered by the United States government in this state if the member was employed to perform creditable service subject to coverage under the Defined Benefit Program within one year prior to entering the job corps and returned to employment to perform creditable service subject to coverage under the Defined Benefit Program within six months following the date of termination of service in the job corps.

(6) Time spent on a sabbatical leave after July 1, 1956.

(7) Time spent on an approved leave to participate in any program under the federal Mutual Educational and Cultural Exchange Program.

(8) Time spent on an approved maternity or paternity leave of two years or less in duration, regardless of whether or not the leave was taken before or after the addition of this subdivision.

(9) Time spent on an approved leave, up to four months in any 12-month period, for family care or medical leave purposes, as defined by Section 12945.2 of the Government Code, as it read on the date leave was granted, excluding maternity and paternity leave.

(10) Time spent employed by the Board of Governors of the California Community Colleges in a position subject to coverage by the Public Employees' Retirement System between July 1, 1991, and December 31, 1997, provided the member has elected to return to coverage under the State Teachers' Retirement System pursuant to Section 20309 of the Government Code.

(b) In no event shall the member receive credit for service or time described in paragraphs (1) to (10), inclusive, of subdivision (a) if the member has received or is eligible to receive credit for the same service or time in the Cash Balance Benefit Program under Part 14 (commencing with Section 26000) or another retirement system.

SEC. 51. Section 22805 of the Education Code is amended to read:

22805. (a) A member may elect to receive credit under this part for time served in the active military service of the United States or of this state, including active service in any uniformed auxiliary to any branch of that military service authorized as an auxiliary by Congress or the Legislature, or in the full-time paid service of the American Red Cross prior to September 1957, if both of the following conditions exist:

(1) The time served was during war with any foreign power or during other national emergency, or in time of peace if the member was drafted for that service by the United States government.

(2) The member was employed to perform creditable service subject to coverage under the Defined Benefit Program within one year prior to entering that service. Time included under this section shall be considered as served in the state in which the member was last employed before entering that service.

(b) Time during which the member was absent without compensation for other cause, on leave, or otherwise, shall not be included.

SEC. 52. Section 22820 of the Education Code is amended to read:

22820. (a) A member, other than a retired member, may elect to purchase out-of-state service credited in a public retirement system for service covering public education in another state or territory of the United States or by the United States for its citizens. In no event shall the member receive credit for this service if the member has credit or is eligible to receive credit for the same service

in the Cash Balance Benefit Program under Part 14 (commencing with Section 26000) or another public retirement system, excluding social security.

(b) The amount of out-of-state service for which a member may purchase credit may not exceed the number of years of service credited to the member in the out-of-state retirement system or 10 years, whichever is less.

(c) Out-of-state service credit may be purchased under this section by means of any of the following actions:

(1) Paying an amount equal to the amount refunded from the other public retirement system and receiving service credit under the Defined Benefit Program pursuant to subdivision (a) of Section 22823.

(2) Paying the contributions required under the Defined Benefit Program pursuant to subdivision (a) of Section 22823 for the service credited in the other public retirement system.

(3) Paying an amount equal to the amount refunded from the other public retirement system and an additional amount in accordance with subdivision (a) of Section 22823 for the service credited in the other public retirement system.

(d) Contributions made to a plan qualified under Section 403(b) of the Internal Revenue Code may not be used to purchase credit for out-of-state service.

(e) Compensation for out-of-state service shall not be used in determining the highest average annual compensation earnable when calculating final compensation.

(f) The service credit purchased under this section shall not be used to meet the eligibility requirements for benefits provided under Sections 24001 and 24101.

SEC. 53. Section 22823 of the Education Code is amended to read:

22823. (a) A member who elects to receive credit for out-of-state service as provided in this chapter shall pay all contributions with respect to that service at the contribution rate for additional service credit adopted by the board as a plan amendment, in effect at the time of election.

(b) (1) Any payment that a member may make to the system to obtain credit for out-of-state service pursuant to this chapter shall be paid in full prior to the effective date of a family, survivor, disability, or retirement allowance.

(2) If the system is unable to inform the member or beneficiary of the amount required to purchase out-of-state service prior to the effective date of the applicable allowance, the member or beneficiary may make payment in full within 30 working days after the date of mailing of the statement of contributions and interest required or the effective date of the appropriate allowance, whichever is later.



(c) Contributions for out-of-state service credit shall be made in a lump sum, or in not more than 120 monthly installments. No installment, except the final installment, shall be less than twenty-five dollars (\$25).

(d) Regular interest shall be charged on the monthly unpaid balance if the member makes installment payments.

SEC. 54. Section 22826 of the Education Code is amended to read:

22826. (a) A member may elect to receive up to five years of credit for nonqualified service provided the member is vested in the Defined Benefit Program as provided in Section 22156.

(b) A member who elects to receive credit for nonqualified service as provided in this chapter shall contribute to the retirement fund the actuarial cost of the service, including interest as appropriate, as determined by the board based on the most recent valuation of the plan with respect to the Defined Benefit Program.

(1) Payment that a member may make to the system to obtain credit for nonqualified service shall be paid in full prior to the effective date of a family, survivor, disability, or retirement allowance.

(2) If the system is unable to inform the member of the amount required to purchase nonqualified service prior to the effective date of the applicable allowance, the member may make payment in full within 30 working days after the date of mailing of the statement of contributions and interest required or the effective date of the appropriate allowance, whichever is later.

(c) Contributions for nonqualified service credit shall be made in a lump sum or in not more than 120 monthly installments. No installment, except the final installment, shall be less than twenty-five dollars (\$25).

(d) Regular interest shall be charged on the monthly unpaid balance if the member makes installment payments.

SEC. 55. Section 22955 of the Education Code is amended to read:

22955. (a) Notwithstanding Section 13340 of the Government Code, commencing July 1, 1999, a continuous appropriation is hereby annually made from the General Fund to the Controller, pursuant to this section, for transfer to the Teachers' Retirement Fund. The total amount of the appropriation for each year shall be equal to 3.102 percent of the total of the creditable compensation of the immediately preceding calendar year upon which members' contributions are based, to be calculated annually on October 1, and shall be divided into four equal quarterly payments.

(b) Notwithstanding Section 13340 of the Government Code, commencing October 1, 1998, a continuous appropriation, in addition to the appropriation made by subdivision (a), is hereby annually made from the General Fund to the Controller for transfer to the Teachers' Retirement Fund. The total amount of the appropriation for each year shall be equal to 0.524 percent of the total of the

creditable compensation of the immediately preceding calendar year upon which members' contributions are based, to be calculated annually on October 1, and shall be divided into four equal quarterly payments. The percentage shall be adjusted to reflect the contribution required to fund the normal cost deficit or the unfunded obligation as determined by the board based upon a recommendation from its actuary. If a rate increase is required, the adjustment may be for no more than 0.25 percent per year and in no case may the transfer made pursuant to this subdivision exceed 1.505 percent of the total of the creditable compensation of the immediately preceding calendar year upon which members' contributions are based. At any time when there is neither an unfunded obligation nor a normal cost deficit, the percentage shall be reduced to zero.

The funds transferred pursuant to this subdivision shall first be applied to eliminating on or before June 30, 2027, the unfunded actuarial liability of the fund identified in the actuarial valuation as of June 30, 1997.

(c) For the purposes of this section, the term "normal cost deficit" means the difference between the normal cost rate as determined in the actuarial valuation required by Section 22311 and the total of the member contribution rate required under Section 22901 and the employer contribution rate required under Section 22950, and shall exclude (1) the portion for unused sick leave service credit granted pursuant to Section 22717, and (2) the cost of benefit increases that occur after July 1, 1990. The contribution rates prescribed in Section 22901 and Section 22950 on July 1, 1990, shall be utilized to make the calculations. The normal cost deficit shall then be multiplied by the total of the creditable compensation upon which member contributions under this part are based to determine the dollar amount of the normal cost deficit for the year.

(d) Pursuant to Section 22001 and case law, members are entitled to a financially sound retirement system. It is the intent of the Legislature that this section shall provide the retirement fund stable and full funding over the long term.

(e) This section continues in effect but in a somewhat different form, fully performs, and does not in any way unreasonably impair, the contractual obligations determined by the court in *California Teachers' Association v. Cory*, 155 Cal.App.3d 494.

(f) Subdivision (b) shall not be construed to be applicable to any unfunded liability resulting from any benefit increase or change in contribution rate under this part that occurs after July 1, 1990.

(g) The amendments to this section during the 1991–92 Regular Session shall be construed and implemented to be in conformity with the judicial intent expressed by the court in *California Teachers' Association v. Cory*, 155 Cal.App.3d 494.

SEC. 56. Section 23003 of the Education Code is amended to read:



23003. (a) If a county superintendent of schools or employing agency or school district or community college district that reports directly to the system fails to make payment of contributions as provided in Section 23002, the board may assess penalties.

(b) The board may charge regular interest on any delinquent contributions under this part.

SEC. 57. Section 23004 of the Education Code is amended to read:

23004. The county superintendent of schools or employing agency shall, or a school district or community college district may, with approval of the board, submit a report monthly to the system containing such information as the board may require in the administration of the plan.

SEC. 58. Section 23006 of the Education Code is amended to read:

23006. (a) If a county superintendent of schools or employing agency or school district or community college district that reports directly to the system, submits monthly reports late or in unacceptable form, the board may assess penalties.

(b) The board may assess penalties, based on the sum of the employer and employee contributions required under this part by the report for late or unacceptable submission of reports, at a rate of interest equal to the regular interest rate or a fee of five hundred dollars (\$500), whichever is greater.

SEC. 59. Section 23201 of the Education Code is amended to read:

23201. Any person whose accumulated retirement contributions were refunded, who wishes to establish concurrent membership, and who has received, or will qualify to receive, a retirement allowance from one or more of the retirement systems defined in Section 22115.2, may elect to redeposit the accumulated retirement contributions that were refunded, with regular interest from the date of refund to the date of payment, without being employed to perform creditable service subject to coverage under the Defined Benefit Program.

SEC. 60. Section 23702 of the Education Code is amended to read:

23702. (a) All members in the Defined Benefit Program on October 15, 1992, who are not receiving a disability allowance or a retirement allowance with an effective date prior to October 16, 1992, shall be eligible to make an irrevocable election, pursuant to this chapter, to retain coverage under either the disability allowance and family allowance programs or to have coverage under the disability retirement and survivor benefits programs.

(b) The member's eligibility to participate in the election shall be based on the member's status in the Defined Benefit Program on October 15, 1992, only, and not on prior or subsequent events.

SEC. 61. Section 23805.5 is added to the Education Code, to read:

23805.5. (a) A parent claiming a benefit under Section 23805 is dependent if all of the following apply:

(1) The parent was receiving one-half or more of his or her support from the member for the tax year preceding the member's death.

(2) The parent was declared as a dependent on the income tax return of the member for at least one of the two tax years preceding the member's death.

(3) No one else has assumed at least one-half of the parent's support in the tax year of the member's death.

(4) The parent has net assets of not more than twenty-five thousand dollars (\$25,000), excluding his or her personal residence and personal property therein.

(b) A person claiming a benefit under Section 23805 or his or her guardian shall furnish the board a state or federal income tax return and any other evidence regarding his or her financial status as the board may require.

SEC. 62. Section 23851 of the Education Code is amended to read:

23851. (a) A death payment of not less than twenty thousand dollars (\$20,000) shall be paid to the beneficiary, as designated pursuant to Section 23300, upon receipt of proof of death of an active member, who had one or more years of credited service, at least one of which had been performed subsequent to the most recent refund of accumulated retirement contributions, if the member died during any one of the following periods:

(1) While in employment for which creditable compensation is paid.

(2) Within four months after termination of creditable service or termination of employment, whichever occurs first.

(3) Within 12 months of the last day for which creditable compensation was paid, if the member was on an approved leave of absence without creditable compensation for reasons other than disability or military service.

(b) A death payment pursuant to this section shall not be payable for the death of a member that occurs within one year commencing with the effective date of termination of the service retirement allowance pursuant to Section 24208 or during the six calendar months commencing with the effective date of termination of the disability retirement allowance pursuant to Section 24117.

(c) The board may adjust the death payment amount following each actuarial valuation based on changes in the All Urban California Consumer Price Index and adopt as a plan amendment with respect to the Defined Benefit Program any adjusted amount.

(d) A designated beneficiary may waive the right to the death payment in accordance with the requirements established by the system.

SEC. 63. Section 24101.5 of the Education Code is amended to read:

24101.5. A member shall not be eligible for disability retirement under the Defined Benefit Program while on a leave of absence to serve as a full-time, elected officer of an employee organization, even if the member receives service credit under Section 22711.

SEC. 64. Section 24201 of the Education Code is amended to read:

24201. (a) A member may retire for service under this part upon written application for retirement to the board, under paragraph (1) or (2) as follows:

(1) The member has attained the age of 55 years or more and has at least five years of credited service, at least one year of which has been performed subsequent to the most recent refund of accumulated retirement contributions. The five years of credited service may include out-of-state service purchased pursuant to Section 22820. The number of years of credited service performed in California shall not be less than the number of years necessary to determine final compensation pursuant to Section 22134 or 22135, whichever is applicable to the member.

(2) The member is credited with service that is not used as a basis for benefits under any other public retirement system, excluding the federal social security system, if the member has attained the age of 55 years or older and retires concurrently under one or more of the retirement systems with which the member has concurrent membership as defined in Section 22115.2.

(b) Application for retirement under paragraph (2) of subdivision (a) may be made even if the member has not earned five years of service.

SEC. 65. Section 24203.5 of the Education Code is amended to read:

24203.5. (a) The percentage of final compensation used to compute the allowance pursuant to Section 24202.5, 24203, or 24205 of a member retiring on or after January 1, 1999, who has 30 or more years of credited service, excluding service credited pursuant to Section 22714, 22715, or 22717, shall be increased by two-tenths of 1 percentage point, provided that the sum of the percentage of final compensation used to compute the allowance in Section 24202.5, 24203, or 24205, including any adjustments for retiring before the normal retirement age, and the additional percentage provided by this section does not exceed 2.40 percent. For purposes of establishing eligibility for the increased allowance pursuant to this section only, credited service shall include credited service that a court has ordered be awarded to a nonmember spouse pursuant to Section 22652. A nonmember spouse shall also be eligible for the increased allowance pursuant to this section if the member had 30 or more years of credited service on the date the parties separated, as established in the judgment or court order pursuant to Section 22652.

(b) Nonqualified service credit for which contributions pursuant to Section 22826 were made in a lump sum on or after January 1, 2000,

or for which the first installment was made on or after January 1, 2000, shall not be included in determining the eligibility for an increased allowance pursuant to this section.

(c) The amendments made to subdivision (a) in the first year of the 1999–2000 Regular Session are declaratory of existing law.

SEC. 66. Section 24205 of the Education Code is repealed.

SEC. 67. Section 24205 is added to the Education Code, to read:

24205. Any member retiring prior to the age of 60 years, and who has attained the age of 55 years, may elect to receive one-half of the service retirement allowance for normal retirement age for a limited time and then revert to the full retirement allowance for normal retirement age.

(a) The retirement allowance shall be based on service credit and final compensation as of the date of retirement for service and shall be calculated with the factor for normal retirement age.

(b) If the member elects a joint and survivor option under Section 24300, the actuarial reduction shall be based on the member's and beneficiary's ages as of the effective date of the early retirement. If the member elected a preretirement option under Section 24307, the actuarial reduction shall be based on the member's and beneficiary's ages as determined by provisions of that section.

(c) One-half of the retirement allowance as of the age of 60 years shall be paid for a period of time equal to twice the elapsed time between the effective date of retirement and the date of the retired member's 60th birthday.

(d) The full retirement allowance as calculated under subdivision (a) or (b) shall begin to accrue as of the first of the month following the reduction period as specified in subdivision (c). The full retirement allowance shall not begin to accrue prior to this time under any circumstances, including, but not limited to, divorce or death of the named beneficiary.

(e) The annual improvement factor provided for in Sections 22140 and 22141 shall be based upon the retirement allowance as calculated under subdivision (a) or (b). The improvement factor shall begin to accrue on September 1 following the retired member's 60th birthday. These increases shall be accumulated and shall become payable when the full retirement allowance for normal retirement age first becomes payable.

(f) Any ad hoc benefit increase with an effective date prior to the retired member's 60th birthday shall not affect any allowance payable under this section. Only those ad hoc improvements with effective dates on or after the retired member's 60th birthday shall be accrued and accumulated and shall first become payable when the full retirement allowance for normal retirement age becomes payable.

(g) The cancellation of an option election in accordance with Section 24305 shall not cancel the election under this section. Upon

cancellation of the joint and survivor option, one-half of the retired member's retirement allowance as calculated under subdivision (a) shall become payable for the balance of the reduction period specified in subdivision (c).

(h) If a retired member who has elected a joint and survivor option dies during the period when the reduced allowance is payable, the beneficiary shall receive one-half of the allowance payable to the beneficiary until the date when the retired member would have received the full retirement allowance for normal retirement age. At that time, the beneficiary's allowance shall be increased to the full amount payable to the beneficiary plus the appropriate annual improvement factor increases and ad hoc increases.

SEC. 68. Section 24211 of the Education Code is amended to read:

24211. When a member who has been granted a disability allowance under this part after June 30, 1972, returns to employment subject to coverage under the Defined Benefit Program and performs:

(a) Less than three years of creditable service after termination of the disability allowance, the member shall receive a retirement allowance which is the sum of the allowance calculated on service credit accrued after the termination date of the disability allowance, the age of the member on the last day of the month in which the retirement allowance begins to accrue, and final compensation using compensation earnable and projected final compensation, plus the greater of either of the following:

(1) A service retirement allowance calculated on service credit accrued as of the effective date of the disability allowance, the age of the member on the last day of the month in which the retirement allowance begins to accrue, and projected final compensation excluding service credited pursuant to Section 22717 or Chapter 14 (commencing with Section 22800) or Chapter 14.2 (commencing with Section 22820), to the termination date of the disability allowance.

(2) The disability allowance the member was receiving immediately prior to termination of that allowance, excluding children's portions.

(b) Three or more years of creditable service after termination of the disability allowance, the member shall receive a retirement allowance that is the greater of the following:

(1) A service retirement allowance calculated on all actual and projected service excluding service credited pursuant to Section 22717 or Chapter 14 (commencing with Section 22800) or Chapter 14.2 (commencing with Section 22820), the age of the member on the last day of the month in which the retirement allowance begins to accrue, and final compensation using compensation earnable, or projected final compensation, or a combination of both.



(2) The disability allowance the member was receiving immediately prior to termination of that allowance, excluding children's portions.

(c) The allowance shall be increased by an amount based on any service credited pursuant to Section 22714, 22715, or 22717 or Chapter 14 (commencing with Section 22800) or Chapter 14.2 (commencing with Section 22820) and final compensation using compensation earnable, or projected final compensation, or a combination of both.

SEC. 69. Section 24212 of the Education Code is amended to read:

24212. (a) If a disability allowance granted under this part after June 30, 1972, is terminated for reasons other than those specified in Section 24213 and the member does not return to employment subject to coverage under the Defined Benefit Program, the member's service retirement allowance, when payable, shall be based on projected service, excluding service credited pursuant to Section 22717 or Chapter 14 (commencing with Section 22800) or Chapter 14.2 (commencing with Section 22820), projected final compensation, and the age of the member on the last day of the month in which the retirement allowance begins to accrue. The allowance payable under this section, excluding annuities payable from accumulated annuity deposit contributions, shall not be greater than the terminated disability allowance excluding children's portions.

(b) The allowance shall be increased by an amount based on any service credited pursuant to Section 22714, 22715, or 22717 or Chapter 14 (commencing with Section 22800) or Chapter 14.2 (commencing with Section 22820) and final compensation using compensation earnable, or projected final compensation, or a combination of both.

SEC. 70. Section 24213 of the Education Code is amended to read:

24213. (a) When a member who has been granted a disability allowance under this part after June 30, 1972, attains normal retirement age, or at a later date when there is no dependent child, the disability allowance shall be terminated and the member shall be eligible for service retirement. The retirement allowance shall be calculated on the projected final compensation and projected service to normal retirement age, excluding service credited pursuant to Section 22717 or Chapter 14 (commencing with Section 22800) or Chapter 14.2 (commencing with Section 22820). The allowance payable under this section, excluding annuities payable from accumulated annuity deposit contributions, shall not be greater than the terminated disability allowance. The allowance shall be increased by an amount based on any service credited pursuant to Section 22714, 22715, or 22717 or Chapter 14 (commencing with Section 22800) or Chapter 14.2 (commencing with Section 22820) and projected final compensation to normal retirement age.



(b) Upon retirement, the member may elect to modify the service retirement allowance payable in accordance with any option provided under this part.

SEC. 71. Section 24300 of the Education Code is amended to read:

24300. (a) Any member prior to the effective date of the member's retirement under this part may elect an option that would provide an actuarially modified retirement allowance payable throughout the life of the member and the member's option beneficiary as follows:

(1) Option 2. The modified retirement allowance shall be paid to the retired member and upon the retired member's death, an allowance equal to the modified amount the retired member was receiving shall be paid to the option beneficiary

(2) Option 3. The modified retirement allowance shall be paid to the retired member and upon the retired member's death, an allowance equal to one-half of the modified amount the retired member was receiving shall be paid to the option beneficiary.

(3) Option 4. The modified retirement allowance shall be paid to the retired member as long as both the retired member and the option beneficiary are living. Upon the death of either the retired member or the option beneficiary, an allowance equal to two-thirds of the modified amount that the retired member was receiving shall be paid to the surviving retired member or the surviving option beneficiary.

(4) Option 5. The modified retirement allowance shall be paid to the retired member as long as both the retired member and the option beneficiary are living. Upon the death of either the retired member or the option beneficiary, an allowance equal to one-half of the modified amount that the retired member was receiving shall be paid to the surviving retired member or surviving option beneficiary.

(5) Option 6. The modified retirement allowance shall be paid to the retired member and upon the retired member's death, an allowance equal to the modified amount the retired member was receiving shall be paid to the option beneficiary. However, if the option beneficiary predeceases the retired member, the retirement allowance without modification for the option shall be payable to the retired member.

(6) Option 7. The modified retirement allowance shall be paid to the retired member and upon the retired member's death, an allowance equal to one-half of the modified amount the retired member was receiving shall be paid to the option beneficiary. However, if the option beneficiary predeceases the retired member, the retirement allowance without modification for the option shall be payable to the retired member.

(7) Option 8. (A) Any member prior to the effective date of the member's retirement may designate multiple option beneficiaries. The member who has designated more than one option beneficiary

shall select an option for each beneficiary designated that would provide an actuarially modified retirement allowance payable throughout the lives of the member and the member's option beneficiaries.

(B) The modified retirement allowance shall be paid to the retired member as long as the retired member and at least one of the option beneficiaries are living. Upon the retired member's death, an allowance shall be paid to each surviving option beneficiary in accordance with the option elected respective to that beneficiary. However, if one or more of the option beneficiaries predeceases the retired member, the retired member's allowance shall be adjusted in accordance with the option elected for the deceased beneficiary. The member shall determine the percentage of the unmodified allowance that will be modified by the election of Option 2, Option 3, Option 4, Option 5, Option 6, or Option 7 under this option, the aggregate of which shall be no greater than 100 percent of the member's unmodified allowance. The election of this option is subject to approval by the board.

(b) The option beneficiary, for purposes of this section, shall have been designated by the member on a form prescribed by the system and duly executed and filed with the system at the time of the member's retirement.

(c) A member may revoke or change an election of an option at any time prior to the effective date of the member's retirement under this part.

(d) This section shall become operative on January 1, 2000.

SEC. 72. Section 24305.5 of the Education Code is amended to read:

24305.5. (a) An option elected under Section 24300 may be canceled by a retired member if the option beneficiary is not the retired member's spouse or former spouse. A retired member may cancel the option before or after issuance of the first retirement allowance payment and shall designate his or her spouse as the new option beneficiary and the same or a different joint and survivor option described in Section 24300.

(b) The retired member shall notify the board, in writing on a form provided by the system, of the designation of the new option beneficiary. Notification shall include a certified copy of the marriage certificate and a properly executed form for the change.

(c) The effective date of the new election shall be six months following the date notification is received by the board, provided both the retired member and the new designated option beneficiary are then living.

(d) The selection of the new option beneficiary and the new option under this section and Section 24300 shall be subject to a further actuarial modification of the modified retirement allowance. In no event may a retired member elect a joint and survivor option

that would result in any additional liability to the fund. Modification of the retirement allowance because of the new option beneficiary and the new option shall be based on the ages of the retired member and the new option beneficiary as of the effective date of the new election.

SEC. 73. Section 24306 of the Education Code is amended to read:

24306. (a) (1) If an option beneficiary designated in the election of an Option 2, Option 3, Option 4, or Option 5, or in the election of Option 2, Option 3, Option 4, or Option 5 under Option 8, predeceases the retired member, the retired member may designate either or both of the following:

(A) A new option beneficiary.

(B) A different joint and survivor option described in Section 24300.

(2) The effective date of the change shall be six months following the date notification is received by the board, provided both the retired member and the designated option beneficiary are then living. Notification shall include proof of death of the predeceased beneficiary and a properly executed form for the change.

(3) The selection of the new joint and survivor option under this subdivision and Section 24300 is subject to a further actuarial modification of the modified retirement allowance. In no event may a retired member elect a joint and survivor option that would result in any additional liability to the fund.

(b) If an option beneficiary designated in the election of an Option 6 or Option 7 or in the election of Option 6 or Option 7 under Option 8, pursuant to Section 24300 or 24307 predeceases the retired member, that portion of the retirement allowance attributable to Option 6 or Option 7 without modification for the option shall be payable to the retired member upon notification to the board and shall commence to accrue to the retired member as of the day following the date of the death of the option beneficiary. Notification to the board shall include proof of death of the beneficiary.

(c) This section shall become operative on January 1, 2000.

SEC. 74. Section 24307 of the Education Code is amended to read:

24307. (a) A member who qualifies to apply for retirement under Section 24201 or 24203 may make a preretirement election of an option, as provided in Section 24300 without right of revocation or change after the effective date of retirement, except as provided in this part. The preretirement election of an option shall become effective on the date a properly executed form prescribed by the system is signed, providing the election is received in the system's office in Sacramento within 30 days after the date of signature.

(b) A member who makes a preretirement election of an Option 2, Option 3, Option 4, Option 5, Option 6, or Option 7 may subsequently make a preretirement election of Option 8. The member may retain the same option and the same option beneficiary

as named in the prior preretirement election, as an option under Option 8.

(c) Upon the member's death prior to the effective date of retirement, the beneficiary who was designated under the option elected and who survives shall receive an allowance calculated under the option, under the assumption that the member retired for service on the date of death. The payment of the allowance to the option beneficiary shall be in lieu of the family allowance provided in Section 23804, the payment provided in paragraph (1) of subdivision (a) of Section 23802, the survivor benefit allowance provided in Section 23854, and the payment provided in subdivisions (a) and (b) of Section 23852, except that if the beneficiary dies before all of the member's accumulated retirement contributions are paid, the balance, if any, shall be paid to the estate of the person last receiving or entitled to receive the allowance. The accumulated annuity deposit contributions and the death payment provided in Sections 23801 and 23851 shall be paid to the beneficiary in a lump sum.

(d) If the member subsequently retires for service, and the elected option has not been canceled pursuant to Section 24309, a modified service retirement allowance computed under Section 24300 and the option elected shall be paid.

(e) The amount of the service retirement allowance prior to applying the option factor shall be calculated as of the earlier of the member's age at death before retirement or age on the last day of the month in which the member requested service retirement be effective. The modification of the service retirement allowance under the option elected shall be based on the ages of the member and the beneficiary designated under the option, at the date the election was signed.

(f) A member who terminates the service retirement allowance pursuant to Section 24208 shall not be eligible to file a preretirement election of an option until one calendar year elapses from the date the allowance is terminated.

(g) The system shall inform members who are qualified to make a preretirement election of an option, through the annual statements of account, that the election of an option can be made.

(h) This section shall become operative on January 1, 2000.

SEC. 75. Section 24600 of the Education Code is amended to read:

24600. (a) A retirement allowance under this part begins to accrue on the effective date of the member's retirement and ceases on the earlier of the day of the member's death or the day on which the retirement allowance terminated for a reason other than the member's death.

(b) A retirement allowance payable to an option beneficiary under this part begins to accrue on the day following the day of the retired member's death and ceases on the day of the option beneficiary's death.



(c) A disability allowance under this part begins to accrue on the effective date of the member's disability and ceases on the earlier of the day of the member's death or the day on which the disability allowance terminated for a reason other than the member's death.

(d) A family allowance under this part begins to accrue on the day following the day of the member's death and ceases on the day of the event that terminates eligibility for the allowance.

(e) A survivor benefit allowance payable to a surviving spouse under this part pursuant to Chapter 23 (commencing with Section 23850) begins to accrue on the day the member would have attained 60 years of age or on the day following the day of the member's death, as elected by the surviving spouse, and ceases on the day of the surviving spouse's death.

(f) A child's portion of an allowance under this part begins to accrue on the effective date of that allowance and ceases on the earlier of either the termination of the child's eligibility or the termination of the allowance. An allowance payable because of a full-time student shall terminate on the first day of the month following the end of the school quarter or semester that is in progress in the month the full-time student attains 22 years of age. Any adjustment to an allowance because of a full-time student's periods of nonattendance shall be made as follows: the allowance shall cease on the first day of the month in which return to full-time attendance was required and shall begin to accrue again on the first day of the month in which full-time attendance resumes.

(g) Supplemental payments issued under this part pursuant to Sections 24701, 24702, and 24703 to retired members, disabled members, and beneficiaries shall begin to accrue pursuant to Sections 24701, 24702, and 24703 and shall cease to accrue as of the termination dates specified in subdivisions (a) to (f), inclusive.

(h) Notwithstanding any other provision of this part or other law, distributions from the plan with respect to the Defined Benefit Program shall be made in accordance with Section 401(a)(9) of the Internal Revenue Code of 1986, as amended, including the incidental death benefit requirements of Section 401(a)(9)(G) and the regulations thereunder, and the required beginning date of benefit payments that represent the entire interest of the member in the plan with respect to the Defined Benefit Program shall be as follows:

(1) In the case of a refund of contributions, as described in Chapter 12 (commencing with Section 23100) of this part, not later than April 1 of the calendar year following the later of (A) the calendar year in which the member attains 70 $\frac{1}{2}$ years of age or (B) the calendar year in which the member terminates employment within the meaning of subdivision (i).

(2) In the case of a retirement allowance, as defined in Section 22150, beginning not later than April 1 of the calendar year following the later of (A) the calendar year in which the member attains 70 $\frac{1}{2}$

years of age or (B) the calendar year in which the member terminates employment within the meaning of subdivision (i), to continue over the life of the member or the lives of the member and the member's option beneficiary, or over the life expectancy of the member or the life expectancy of the member and the member's option beneficiary.

(i) For purposes of subdivision (h), "terminates employment" means the later of the termination of employment subject to coverage by the Defined Benefit Program or the termination of employment in a position requiring or permitting membership in another public retirement system in this state the compensation from which may be included in final compensation under Section 22127.

(j) This section shall become operative on January 1, 2002.

SEC. 76. Section 24615 of the Education Code is amended to read:

24615. (a) If the board determines that contributions are due the system under this part from a retired member, disabled member, or a person who has died and the person is unable to pay the amount due, the board may withhold all or part of subsequent payments due the retired member, disabled member, or survivor, until the amounts withheld equal the contributions due plus regular interest to the date of payment. Total contributions plus regular interest due shall be recovered by the system within 18 months.

(b) Any payment of contributions that a member or beneficiary is required by law to make to the system shall be paid upon receipt of written notice from the system. Payment may be made either in a lump sum or installments as permitted by the system. Payment of contributions due the system not discovered or unpaid, for whatever reason, prior to the time of retirement, disability, or death shall be paid prior to granting an allowance or benefit to the member or beneficiary unless, in the opinion of the board, the making of the payment prior to receipt of an allowance or benefit would impose an undue hardship, in which case payment may be made by the system withholding not more than 18 consecutive monthly installments from payments due from the system. Those installments shall not be less than twenty-five dollars (\$25) per month except for the last installment, that may be less.

SEC. 77. Section 26135 of the Education Code is amended to read:

26135. "Plan year" means the calendar, policy, or fiscal year on which the records of the plan are kept, with respect to the Cash Balance Benefit Program. The board by means of plan amendment shall determine the plan year.

SEC. 78. Section 26202 of the Education Code is amended to read:

26202. (a) The board shall establish a Gain and Loss Reserve within the Teachers' Retirement Fund for the Cash Balance Benefit Program. The board has sole authority to administer the Gain and Loss Reserve to be drawn upon to the extent necessary to credit interest to employee accounts and employer accounts at the

minimum interest rate during years in which the investment earnings of the plan with respect to the Cash Balance Benefit Program are not sufficient for that purpose, and, where necessary, to provide additions to the Annuitant Reserve for monthly annuity payments.

(b) The board shall establish and periodically review goals regarding the sufficiency of the Gain and Loss Reserve based on the recommendation of the actuary.

(c) In the event that the total amount of investment earnings of the plan with respect to the Cash Balance Benefit Program for any plan year exceeds the sum of the total amount required to credit all employee and employer accounts at the minimum interest rate for the plan year plus the administrative costs of the plan with respect to the Cash Balance Benefit Program for the plan year, the board shall determine the amount, if any, that is to be credited to the Gain and Loss Reserve for the plan year. That determination shall be made upon recommendation of the actuary following the adoption by the board of the actuarial valuation undertaken following the plan year pursuant to Section 26202, but no later than June 30 following the end of the plan year. In determining whether an amount is to be credited to the Gain and Loss Reserve, the board shall consider the sufficiency of the reserve in light of the goal established for the sufficiency and the recommendations of the actuary.

SEC. 79. Section 26215 of the Education Code is amended to read:

26215. (a) Information filed with the system by a participant or beneficiary is confidential and shall be used by the system for the sole purpose of carrying into effect the provisions of this part. No official or employee of the system who has access to the individual records of a participant or beneficiary shall divulge any confidential information concerning those records to any person except in the following instances:

(1) To the participant or beneficiary to whom the information relates.

(2) To the authorized representative of the participant or beneficiary.

(3) To the governing board of the participant's current or former employer.

(4) To any department, agency, or political subdivision of this state.

(5) To other individuals as necessary to locate a person to whom a benefit may be payable.

(6) Pursuant to subpoena.

(b) Information filed with the system in a beneficiary designation form may be released after the death of the participant to those persons who may provide information necessary for the distribution of benefits.



(c) The information is not open to inspection by anyone except the board and its officers and employees of the system, and any person authorized by statute to make inspections.

SEC. 80. Section 26301 of the Education Code is amended to read:

26301. (a) Employers shall report, on a form prescribed by the system, contributions paid on behalf of each participant in each pay period, along with all other information required by the system no later than 10 working days following the last day of the pay period in which the salary was earned, and the report shall be delinquent immediately thereafter.

(b) The board may assess a penalty against the employer for a report submitted late or in an unacceptable form.

SEC. 81. Section 26303 of the Education Code is amended to read:

26303. (a) Employers shall transmit to the plan the employee contributions and employer contributions with respect to the Cash Balance Benefit Program for salary paid to each participant during the pay period no later than 10 working days following the last day of the pay period in which the salary was earned.

(b) Payments shall be delinquent on the 11th working day thereafter, and interest shall begin to accrue at the minimum interest rate from that day until payment for the contribution report is received in full by the system. The board may collect interest for late payment from the employer under this subdivision.

SEC. 82. Section 26401.5 of the Education Code is amended to read:

26401.5. (a) A member of the Defined Benefit Program who is employed by more than one employer to perform creditable service for less than 50 percent of the full-time equivalent for the position with each employer shall not be eligible to make an election as provided in Section 26401 unless and until all employers by which the member is employed to perform creditable service provide the benefits of this part for their employees.

(b) If a member of the Defined Benefit Program who pursuant to subdivision (a) has made an election as provided in Section 26401 is subsequently employed to perform creditable service for an employer that does not provide the benefits of this part for its employees, contributions shall no longer be made to the Cash Balance Benefit Program on his or her behalf and creditable service performed for all employers shall be subject to coverage under the Defined Benefit Program, with no subsequent right of election pursuant to Section 26401 or subdivision (a).

SEC. 83. Section 26504 of the Education Code is amended to read:

26504. The employer may enter into a collective bargaining agreement to pay a different employer contribution rate and a different employee contribution rate, provided all of the following conditions are met:

(a) The sum of the employee contributions and employer contributions for each participant shall equal or exceed 8 percent of salary.

(b) The employee contribution rate may exceed the employer contribution rate but in no event shall the employer contribution rate be less than 4 percent.

(c) The employee contribution rate and employer contribution rate shall be the same for each participant employed by the employer.

(d) The employee contribution rate and employer contribution rate shall be in one-quarter percent increments.

(e) The employee contribution rate and employer contribution rate as determined under the collective bargaining agreement shall become effective on the first day of the plan year following notification to the system and shall remain in effect for at least one plan year. However, the employee contribution rate and the employer contribution rate as determined under the collective bargaining agreement may become effective as of the first day of the plan year in which notice is given if it is so provided in the collective bargaining agreement and if a lump-sum contribution is made to the plan equal to the additional employee and employer contributions, if any, that would have been required if the contribution rates had been in effect on the first day of the plan year. Interest shall be credited at the minimum interest rate with respect to the lump-sum contribution commencing with the first month after the contribution is made.

(f) The employer has filed notice of the employee contribution rate and the employer contribution rate on a form prescribed by the system.

SEC. 84. Section 26603 of the Education Code is amended to read:

26603. All employee contributions shall be credited to employee accounts and all employer contributions shall be credited to employer accounts as of the first working day following the date all contributions to fully satisfy the contribution report as submitted by the employer are received by the system.

SEC. 85. Section 26604 of the Education Code is amended to read:

26604. (a) Beginning June 1, 1996, prior to the Cash Balance Plan becoming effective, and prior to the beginning of each plan year thereafter, the board, by plan amendment with respect to the Cash Balance Benefit Program, shall declare the minimum interest rate for crediting employee accounts and employer accounts with respect to the Cash Balance Benefit Program during the following plan year.

(b) All interest shall be computed at the minimum interest rate on the balance of the employee account and the employer account and shall be compounded daily.

(c) Interest for contributions credited during that month to the respective account shall accrue at the minimum interest rate from

the first working day following the date contributions are received in full by the system pursuant to Section 26603.

(d) Interest shall not be credited to employee accounts and employer accounts that have been transferred to the Annuitant Reserve for payment of an annuity.

SEC. 86. Section 27410 of the Education Code is amended to read:

27410. (a) The nonparticipant spouse who is awarded separate nominal accounts shall have the right to designate, pursuant to Sections 27100 to 27102, inclusive, a beneficiary or beneficiaries to receive the amounts credited to the separate nominal accounts of the nonparticipant spouse on his or her date of death, and any annuity attributable to the separate nominal accounts which is unpaid on the date of the death of the nonparticipant spouse.

(b) This section shall not be construed to provide the nonparticipant spouse with any right to elect a joint and survivor annuity pursuant to paragraphs (3) and (4) of subdivision (b) of Section 26807.

SEC. 87. Section 44494 of the Education Code is amended to read:

44494. (a) On or before September 1 of each year, participating school districts that receive funding pursuant to subdivision (a) of Section 44492 shall allocate no less than four thousand dollars (\$4,000) to provide each qualified mentor with an additional annual stipend over and above the regular salary to which he or she is entitled. The amount of the annual stipend shall be four thousand dollars (\$4,000) for a full school year of service as a mentor, or a pro rata share of that amount for less than a full school year of service as a mentor, except that participating school districts that receive funding pursuant to subdivision (b) of Section 44492 shall allocate the full amount so received to provide a qualified mentor with an additional annual stipend over and above the regular salary to which he or she is entitled. This stipend shall not be counted as salary or wages for purposes of calculating employer and employee contributions or employee benefits under the Defined Benefit Program of the State Teachers' Retirement Plan.

(b) A mentor may propose that the district allocate all or part of the stipend for his or her professional growth or release time.

(c) The governing board may designate certificated employees as mentor teachers pursuant to Section 44491 and pay these persons the additional annual stipend authorized under subdivision (a) for a period not to exceed three consecutive school years. Upon completing three years as a mentor teacher, an individual may be reviewed and renominated.

(d) The subject of participation by a school district or an individual certificated classroom teacher in a mentor teacher program shall not be included within the scope of representation in collective bargaining among a public school employer and eligible employee organizations.



SEC. 88. Section 20639 of the Government Code is amended to read:

20639. The compensation earnable during any period of service as a member of the Judges' Retirement System, the Legislators' Retirement System, or the Defined Benefit Program of the State Teachers' Retirement Plan shall be considered compensation earnable as a member of this system for purposes of computing final compensation for the member, if he or she retires concurrently under both systems.

A member shall be deemed to have retired concurrently under this system and under the Defined Benefit Program of the State Teachers' Retirement Plan, if the member is enrolled as a disabled member under the Defined Benefit Program of the State Teachers' Retirement Plan and for retirement under this system on the same effective date.

SEC. 89. Section 47611 of the Education Code is amended to read:

47611. If a charter school chooses to make the State Teacher's Retirement Plan available, all employees of the charter school who perform creditable service shall be entitled to have that service covered under the plan's Defined Benefit Program or Cash Balance Benefit Program, and all provisions of Part 13 (commencing with Section 22000) and Part 14 (commencing with Section 26000) shall apply in the same manner as the provisions apply to other public schools in the school district that granted the charter.

SEC. 90. Any section of any act enacted by the Legislature during the 1999 calendar year that takes effect on or before January 1, 2000, and that amends, amends and renumbers, adds, repeals and adds, or repeals a section that is amended, amended and renumbered, repealed and added, or repealed by this act, shall prevail over this act, whether that act is enacted prior to, or subsequent to, the enactment of this act. The repeal, or repeal and addition, of any article, chapter, part, title, or division of any code by this act shall not become operative if any section or any other act that is enacted by the Legislature during the 1999 calendar year and takes effect on or before January 1, 2000, amends, amends and renumbers, adds, repeals and adds, or repeals any section contained in that article, chapter, part, title, or division.

